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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re ISIAAH P., a Person
Coming Under the Juvenile
Court Law.

B293944

(Los Angeles County
Super. Ct. No. TJ21914)

THE PEOPLE,
Plaintiff and Respondent,
v.
ISIAAH P.,
Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County, Kevin Brown, Judge. Affirmed.

Laini Millar Melnick, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Lance E. Winters, Chief Assistant Attorney General, Susan Sullivan Pithey, Acting Senior Assistant Attorney General, Kenneth C. Byrne, Supervising Deputy Attorney General, and E. Carlos Dominguez, Deputy Attorney General, for Plaintiff and Respondent.

INTRODUCTION

Isaiah P. appeals the juvenile court's disposition after it sustained a petition based on a finding that he assaulted a police officer by means likely to cause great bodily injury. (Pen. Code, § 245, subd. (c).)¹ Isaiah also requests that we independently review the in camera proceeding conducted by the trial court to determine whether it properly concluded there was no additional discoverable material to which he was legally entitled under Evidence Code section 1043 and *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 (*Pitchess*). We find no *Pitchess* error and affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

A. The Charges Against Isaiah

In a Welfare and Institutions Code section 602 petition filed by the People on June 12, 2018,² Isaiah, 16 years old at the time, was charged with felony assault on a peace officer (§ 245, subd. (c)), felony grand theft of an automobile (§ 487, subd. (d)(1)), and first degree burglary with a person present (§§ 459,

¹ The court also found to be true the grand theft automobile and residential burglary allegations. However, Isaiah only challenges on appeal the court's ruling concerning the Penal Code section 245, subdivision (c) charge.

All statutory references are to the Penal Code, unless otherwise indicated.

² All further dates are in 2018.

462, subd. (a)). Isaiah denied the charges at his arraignment. On July 26, Isaiah filed a *Pitchess* motion.

B. The Evidence Presented at the Adjudication

On the late evening of June 10, Jorge Sanchez returned from a trip and parked his truck on the street in front of his home. Around 3:25 the next morning, Jorge³ was awakened by his brother, Mario, who informed him his truck was being stolen. Mario saw two individuals loading items into Jorge's truck. But before Jorge and Mario could stop them, they drove away in the truck. Jorge and Mario got into Mario's vehicle and followed the two individuals but lost sight of them. Jorge then called 911 and reported his truck had been stolen. The keys to Jorge's truck was in his pants pocket. While reporting the incident to the police, Jorge noticed the keys were missing. At that time, he realized the house had been burglarized Jorge later confirmed, after his truck had been recovered, that many items in the truck had been stolen from his home.

Around 3:30 a.m. on June 11, South Gate Police Officer Christian Perez was on patrol and responded to a dispatch call concerning theft of a truck. When he saw the stolen truck, Perez activated his patrol vehicle's lights and pursued the truck because it did not stop. The truck was driven into a nearby park, came to a stop, and its two occupants jumped out of it and ran. Perez broadcast a description of the passenger and the direction in which he was running. Perez ordered the passenger to stop, but he did not. Isaiah was later identified as the passenger in the

³ Because Jorge and his brother share the same last name, we use their first names.

truck. When Perez caught up with other officers after Isaiah had been caught, he heard one of them telling Isaiah to “stop resisting, stop fighting.”

Officer Aloysius Peterson also responded to a dispatch call regarding officers having initiated a traffic stop and then pursuing the suspects. When he arrived at the park, he noticed Isaiah running, got behind him in his patrol vehicle, and activated his lights and siren. When he could no longer follow Isaiah in the vehicle, Peterson chased Isaiah on foot. Despite Peterson’s instructions for Isaiah to stop, Isaiah did not do so. When Peterson caught up with Isaiah, he grabbed Isaiah by the upper body and pushed him to the ground. Isaiah resisted by keeping his left arm under his body, pulling and pushing away and struggling to free himself from Peterson. Peterson struck Isaiah twice on his left side with a closed fist to get control of Isaiah’s arm.

Officer Arturo Macias also assisted in arresting Isaiah. He and his partner, Sara Meza-Medrano, responded to the grand theft dispatch call. When he saw Peterson chasing a suspect, Macias asked Meza-Medrano to stop their patrol vehicle; he left the vehicle and ran toward Peterson and the suspect. After Peterson had put Isaiah on the ground, Macias assisted Peterson in detaining Isaiah. Macias repeatedly instructed Isaiah to stop resisting and to show him his hands. During the struggle, Isaiah looked up at Macias and elbowed him on the right side of his face. Isaiah continued to throw his elbow. Macias responded by punching Isaiah in the face four times. Isaiah still continued to resist. When Macias then elbowed Isaiah in the face, Isaiah raised his arm to cover his face, thereby allowing Macias to gain control of Isaiah and to handcuff him. Macias had a fractured

finger and the right side of his face and his eye were swollen as a result of Isaiah elbowing him in the face.

Meza-Medrano was called as a witness by the defense. She testified that when she arrived at the scene, she saw Peterson taking Isaiah to the ground. She witnessed Macias telling Isaiah to free his arm and to stop resisting several times. She assisted Peterson and Macias by holding Isaiah's ankles. Meza-Medrano saw Macias punch Isaiah in the face twice.

C. The Parties' Arguments

At the contested adjudication, the People argued Isaiah elbowed Macias in the face after he looked up at Macias, and this act was purposeful. They maintain Macias was lawfully performing his duties as a peace officer. In lawfully performing those duties, Macias used reasonable force while arresting Isaiah. Macias struck Isaiah in his face, in turn, only after Isaiah had elbowed him, and he only used enough force to overcome Isaiah's resistance. The People added that Isaiah could not use force to resist Macias' reasonable use of force, and Isaiah did not act in self-defense.

Defense counsel countered that Isaiah could not have elbowed Macias on the right side of his face because that was impossible given how Macias was positioned next to Isaiah. She added the other officers did not see Isaiah elbow Macias in the face, and one officer referred to Macias as an "idiot" because Macias had hit Isaiah in the face four times and elbowed him as well.

D. The Court's Ruling and Isaiah's Appeal

On September 28, the court sustained the petition and determined the charges to be felonies. At the disposition hearing

on October 9, the court ordered Isaiah to be suitably placed in a five to seven-month camp and imposed conditions of probation. Isaiah timely appealed the disposition on November 15.

DISCUSSION

Isaiah contends the evidence was insufficient to establish he used force likely to cause great bodily injury, Macias was not lawfully performing his duties at the time Isaiah was arrested, and, in any event, his actions were negated by Macias' use of excessive force.

A. The Trial Court Complied with Its Pitchess Obligations

Preliminarily, we address Isaiah's request for us to independently review the in-camera proceedings related to his *Pitchess* request.

In a motion filed on July 26, Isaiah sought discovery of the personnel files of Meza-Medrano, Perez, Peterson, Reyes, and Macias related to accusations of misconduct "concerning the officers' character for honesty and integrity, including accusations of lying, filing false reports, perjury, theft, fraud, misrepresentation, malfeasance, planting evidence, and fabricating admissions, confessions, or other evidence." The South Gate Police Department opposed the motion, contending Isaiah had not strictly complied with Evidence Code section 1043, subdivision (a)'s, service requirements.

On August 15, the court, finding good cause to conduct an in-camera review, granted Isaiah's motion as to Macias and Meza-Medrano only. At an in-camera hearing on that date, the court swore in the South Gate Police Department's custodian of record and reviewed the files he presented regarding Macias and

Meza-Medrano. The court thoroughly described each document it reviewed on the record. Based on Isaiah's discovery request and the court's determination of what was discoverable, the court found that information concerning one complaint leveled at Macias was to be produced, and there was no discoverable information relating to Meza-Medrano.

"A trial court's decision on the discoverability of material in police personnel files is reviewable under an abuse of discretion standard." (*People v. Jackson* (1996) 13 Cal.4th 1164, 1220.) At Isaiah's request, which the People did not oppose, we have reviewed the sealed transcript of the in camera proceeding. Based on that review, we conclude the trial court satisfied the requirements in determining whether there was discoverable information by conducting a proper inquiry into the discoverability of information in Macias' and Meza-Medrano's personnel files and making an adequate record for our review. Therefore, we have concluded no abuse of discretion occurred. (See *People v. Townsel* (2016) 63 Cal.4th 25, 68; *People v. Mooc* (2001) 26 Cal.4th 1216, 1229.)

B. Standard of Review Regarding Sufficiency of the Evidence

An appeal based on insufficiency of the evidence involves a determination as to whether there was substantial evidence supporting the verdict. "When considering a challenge to the sufficiency of the evidence to support a criminal conviction, we review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—that is, evidence which is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt." [Citation.] 'In

making this determination, we do not reweigh the evidence, resolve conflicts in the evidence, or reevaluate the credibility of witnesses.’ [Citation.]” (*People v. Wetle* (2019) 43 Cal.App.5th 375, 388.) “The same standard of appellate review is applicable in considering the sufficiency of the evidence in a juvenile proceeding as in reviewing the sufficiency of the evidence to support a criminal conviction.” (*In re Sylvester C.* (2006) 137 Cal.App.4th 601, 605.)

It is the exclusive province of the trial court to evaluate testimony and to “determine the credibility of a witness and the truth or falsity of the facts upon which a determination depends.” (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) The testimony of a single witness is sufficient to uphold a judgment. (Evid. Code, § 411; *People v. Young* (2005) 34 Cal.4th 1149, 1181 [“unless the testimony is physically impossible or inherently improbable, the testimony of a single witness is sufficient to support a conviction”].) “We presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence presented at trial.” (*People v. Scott* (2011) 52 Cal.4th 452, 487; accord, *People v. Gutierrez* (2009) 174 Cal.App.4th 515, 519.)

C. Substantial Evidence Supports the Court’s Sustaining of the Petition Regarding the Section 245, Subdivision (c) Charge

Section 245, subdivision (c), provides: “Any person who commits an assault with a deadly weapon or instrument, other than a firearm, or by means likely to produce great bodily injury upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when

the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years.” (§ 245, subd. (c).)

1. *Isaiah Used Force Likely to Cause Great Bodily Injury*

In viewing the evidence most favorable to the judgment, we find the record contains ample evidence supporting the conviction. It is not disputed that Macias was on duty as a peace officer performing his duties. It is also undisputed that Isaiah attempted to evade Macias and the other officers when they determined he had engaged in criminal activity. As a matter of law, the officers were entitled to detain Isaiah for purposes reasonably related to an investigation. Having lawfully stopped Isaiah, Macias was justified in ordering him to submit and to stop resisting the officers’ attempts to handcuff him. Isaiah’s active resistance necessitated three officers having to handcuff him. Isaiah’s refusal to comply with the officers’ repeated commands to stop resisting arrest, after he was lawfully detained for auto theft, provides sufficient evidentiary support for the conviction. (*In re J.C.* (2014) 228 Cal.App.4th 1394, 1399-1400.)

Isaiah argued the force of any impact of a blow from him to Macias’s face “resulted in only slight swelling and redness on Macias’s face and it is ‘highly probative’ of the fact that the force used was not of the kind likely to cause great bodily injury.” But it is inconsequential that Macias was not seriously injured. All that is required to meet the element of the charge is that there was a “means likely to produce great bodily injury.” The offense under section 245 “is directed at the force used, and it is immaterial whether the force actually results in any injury. The focus is on force likely to produce great bodily injury.” (*People v.*

Parrish (1985) 170 Cal.App.3d 336, 343.) Being elbowed in the face amounts to such means.

Isaiah also contends the lack of corroborating testimony from the other officers concerning Macias having been elbowed in the face gives credence to his contention that it did not happen. But, as he concedes, the testimony of one witness, if believed, is sufficient to support a finding. (See Evid. Code, § 411 [“except where additional evidence is required by statute, the direct evidence of one witness who is entitled to full credit is sufficient for proof of any fact”].) Further, the credibility of witnesses is exclusively the province of the court. (*People v. Ochoa, supra*, 6 Cal.4th at p. 1206.) Macias testified Isaiah looked up at him before elbowing him in the face. As Isaiah was flailing his arms and not complying with the officers’ repeated commands to stop resisting and fighting, Macias’s testimony was neither physically impossible nor inherently improbable. Given the court’s finding that the section 245, subdivision (c) charge was true, the court believed the testimony Macias provided and was not moved by the defense’s arguments to the contrary.

2. *Macias Was Lawfully Performing His Duties*

Isaiah contends Macias used excessive force and that negates any act on Isaiah’s part. If an officer uses excessive force while making an arrest, he or she is not acting lawfully. (See *People v. Sibrian* (2016) 3 Cal.App.5th 127, 133 [discussing use of excessive force in the context of an offense of resisting an executive officer under section 69].) When determining whether or not an officer used excessive force, the trier of fact must consider the totality of the circumstances. (*Graham v. Connor* (1989) 490 U.S. 386, 396.) Such circumstances include the

severity of the crime at issue, whether defendant posed an immediate threat to the officers or others, and whether defendant actively resisted arrest or was attempting to evade arrest by flight. (*Ibid.*) The “reasonableness” of the use of force is measured from the perspective of a reasonable officer on the scene, rather than with 20/20 vision of hindsight. (*Ibid.*)

In the instant case, the *Graham* factors favor a finding that Macias used reasonable force in arresting Isaiah. First, the officers had reason to believe Isaiah had committed the crime of auto theft. When Isaiah saw Peterson, he reacted by trying to escape. He refused Perez’s and Peterson’s orders to stop. Even after he was caught, Isaiah actively resisted the attempts of three officers to detain and arrest him. Second, while being detained, Isaiah repeatedly flailed his arm, avoided being handcuffed, and elbowed Macias in the face. It was only after Macias was elbowed in the face by Isaiah that Macias punched Isaiah in his face several times to get Isaiah to stop resisting. Third, even after striking Macias, and being struck in turn by Macias, Isaiah continued to disregard the officers’ commands to stop resisting and fighting by flailing his arm. Then, only after Macias elbowed Isaiah in his face did Isaiah stop resisting.

The evidence supporting the court’s implicit rejection of Isaiah’s defense of self-defense was not physically impossible, demonstrably false or unsupported by substantial evidence. (*People v. Friend* (2009) 47 Cal.4th 1, 41.)

Given the totality of the circumstances, there was sufficient evidence in support of the court’s finding that the section 245, subdivision (c) charge against Isaiah was true.

DISPOSITION

The judgment is affirmed.

RICHARDSON, J.*

We concur:

PERLUSS, P. J.

FEUER, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.